

TITLE 14. BOARD OF FORESTRY AND FIRE PROTECTION

Board of Forestry and Fire Protection Title 14 of the California Code of Regulations

[Notice Published May 11, 2007]

NOTICE OF PROPOSED RULEMAKING

Road Management Plan, 2007

The Board of Forestry and Fire Protection (Board) proposes to adopt the regulations of Title 14 of the California Code of Regulations (14 CCR) described below after considering all comments, objections, and recommendations regarding the proposed action.

Amend:

§ 895	Abbreviations Applicable Throughout the Chapter
§1037	THP Preharvest Inspection-Filing Return

Adopt Permanently:

§ 1093	Road Management Plan
§ 1093.1	Definitions
§ 1093.2	Guidelines for Orderly Evaluation of Activities Proposed by an RMP.
§ 1093.3	Content of Road Management Plan
§ 1093.4	Limitation on Information Requirements
§ 1093.5	RMP Effective Period
§ 1093.6	Notice of Filing

PUBLIC HEARING

The Board will hold a public hearing starting at 8:00 A.M., on Thursday, July 12, 2007, starting at 8:00 a.m., at the Inter-Mountain Fair of Shasta County, 44218 A St. McArthur, CA , 96056, California. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code section 11125.1, any information presented to the Board during the open hearing in connection

with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. **The written comment period ends at 5:00 P.M., on Thursday, June 28, 2007.** The Board will consider only written comments received at the Board office by that time (in addition to those comments received at the public hearing). The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection
Attn: Christopher Zimny
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection
Room 1506-14
1416 9th Street
Sacramento, CA

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653-0989

Written comments may also be delivered via e-mail at the following address:

board.public.comments@fire.ca.gov

AUTHORITY AND REFERENCE

Public Resources Code (PRC) 4551 authorizes the Board to adopt such rules and regulations as it determines are reasonably necessary to enable it to implement, interpret, or make specific sections 4551.5, 4562.5, and 4562.7 of the Public Resources Code. PRC sections 751, 4512, 4513, 21000, and 21001 are additional references. PRC 4513(b) states that one of the goals of the Z'berg-Nejedly Forest Practice Act is to consider watershed, wildlife, and fisheries. These regulatory changes will further that goal.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The State Board of Forestry and Fire Protection (Board) is proposing changes to the Forest Practice Rules (FPRs) for development of a *Road Management Plan (RMP)* as a supplement to the Timber Harvest Plan (THP) process. The RMP provides a means for addressing long-term issues of sustained timber production and cumulative watershed effects from the transportation system on fish, wildlife, the beneficial uses of water, and watersheds on a landscape basis. A RMP specifies measures to be applied to a forest transportation system to protect, maintain, and enhance the beneficial uses of water and other environmental resources consistent with the objectives of the timberland owner. Among the general ways the RMP contributes to the beneficial uses of water is the following:

- The RMP provides a regulatory opportunity for the California Department of Forestry and Fire Protection (Department), other responsible agencies, and timberland owners to identify site-specific conditions that are impacting the beneficial uses of water, including anadromous salmonid protection, within the broader context of a logical hydrologic or ownership unit.
- The RMP promotes consultation between the responsible agencies and the timberland owner to address specific limiting factors for anadromous salmonids and other beneficial uses of water related to roads within an evaluation area.
- The RMP provides timberland owners the opportunity to establish a landscape level framework for addressing long-term issues of sustained timber production, and cumulative effects analysis that includes the impacts of transportation systems on fish, wildlife, the beneficial uses of water, and watersheds.

The proposed regulation includes specific contents for the RMP. These include a goals and objectives element (long term plans and desired future conditions), an evaluation element (history, existing conditions, and constraints), an operational element (construction and use), a verification element (tracking and monitoring), and an adaptive management element (goal comparison and revisions).

The RMP may be submitted by a timberland owner(s) for the Department Director's review and approval as supplemental information to support review of a THP or other Plan defined in the Forest Practice Rules.

In summary, the RMP provides the timberland owner and agencies a voluntary process to evaluate and reach solutions on limiting factors for anadromous fisheries and other beneficial uses of water. It provides detailed information to improve the regulatory review of harvest plans with roads and improves watershed level impact analysis.

REGULATION PURPOSE AND NECESSITY

14 CCR § 895 Abbreviations Applicable Throughout the Chapter

Abbreviations are being added to represent the Road Management Plan (RMP) to allow some brevity in the rules and for clarity. The proposed addition to the abbreviations is intended to ensure that the affected public, as well as the reviewing agencies understand what technical term the abbreviation represents. This is additionally intended to allow for brevity in the rule language and subsequently to increase the clarity of reading for the regulated public.

14 CCR §1037. THP Preharvest Inspection-Filing Return.

The purpose of this section of the proposed regulation is to state the process under which a THP submitted with an RMP shall have preliminary review for initial accuracy and filing. The subsection establishes a 20 day period for director review for preliminary accuracy checks and filing for formal review, because the RMP is expected to add additional preliminary review time.

14 CCR § 1093 Road Management Plan.

The purpose of this section is to state the legislative intent and authorization for the BOF to create a RMP

14 CCR § 1093.1 Definitions.

The purpose of this section of the proposed regulation is to define several terms used in the RMP that are not already included in the definitions section of the FPRs.

14 CCR § 1093.2 Guidelines for Orderly Evaluation of Activities Proposed by an RMP.

The Board establishes broad guidelines to be included in the RMP in this section and defines the goals and objectives to be achieved in the development of the RMP. This section also requires the RMP to be prepared by a Registered Professional Forester (RPF) and other licensed professionals as needed.

14 CCR § 1093.3 Content of Road Management Plan

SPECIFIC PURPOSE OF THE REGULATION

The Board provides that if a person chooses to submit an RMP, it shall contain a goals and objectives, evaluation, operational, verification and adaptive management elements, along with other basic disclosure information such as name, address and legal locations [subsections (a) and (b)].

14 CCR § 1093.4 Limitation on Information Requirements

The purpose of this section of the proposed regulation is to limit the amount of information required in a RMP when there are ownerships other than the RMP submitters' involved in the plan.

14 CCR § 1093.5 RMP Effective Period

The purpose of this section of the proposed regulation is to state a time limit for the implementation of a RMP. An RMP is limited to the time period associated with the THP to which it supplements.

14 CCR § 1093.6 Review of Road Management Plan-Notice of Filing

The purpose of this section is to state the Director shall review, approve or disapprove all submitted RMPs as part of the THP process to which the RMP supplements.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has determined the proposed action will have the following effects:

- Mandate on local agencies and school districts: None are known.
- Costs or savings to any State agency: None are known.
- Cost to any local agency or school district which must be reimbursed in accordance with the applicable Government Code (GC) sections commencing with GC 17500: None are known.
- Other non-discretionary cost or savings imposed upon local agencies: None are known.
- Cost or savings in federal funding to the State: None are known.
- Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states:

The rule proposal may affect businesses and small business related to the timber industry by increasing the cost for timber harvesting. These potential extra costs are associated with planning, operations, and monitoring, and may include but are not limited to: additional planning, construction and maintenance costs for roads and

watercourse crossings, and additional cost of professional consultations. There may also be additional cost associated with additional inspections.

The preparation and use of an RMP with a THP is not required but is an opportunity provided to THP submitters. As such, it is the responsibility of the timberland owner to determine if the economic balance is in favor of proceeding under existing operational and planning requirements or to design site related actions specific to the owner's property.

Given this use of the regulation at the discretion of the individual or business, the Board staff does not anticipate that any increased costs will result in a significant, statewide adverse economic impact directly affecting business, nor has it determined that it will affect the ability of California businesses to compete with businesses in other states.

- Potential cost impact on private persons or directly affected businesses: As indicated above, the rule proposal will affect businesses and large and small landowners with an interest in the timber products industry by increasing the cost for timber harvesting. These extra costs are associated with planning, operations, and monitoring, and may include but are not limited to: additional planning, construction and maintenance costs for roads and watercourse crossings, and additional cost of professional consultations
- Significant effect on housing costs: None are known.
- Adoption of these regulations will not create or eliminate jobs within California.

Effect on small businesses: Given the use of this regulation is at the discretion of a small business, the Board staff does not anticipate that any increased costs will result in a significant adverse effect on small businesses.

- Adoption of these regulations will not: (1) create new businesses or eliminate existing businesses within California; or (2) affect the expansion of businesses currently doing business within California.

The proposed rules do not conflict with, or duplicate Federal regulations.

BUSINESS REPORTING REQUIREMENT

The regulation does not require a report, which shall apply to businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code 11346.5(a) (13), the Board must determine that no reasonable alternative it considers or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection
Attn: Christopher Zimny
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460

Telephone: (916) 653-9418

The designated backup person in the event Mr. Zimny is not available is Doug Wickizer, Chief Environmental Protection and Regulation, Department of Forestry and Fire Protection, at the above address and phone number (916) 653 -5602.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared an *Initial Statement of Reasons* providing an explanation of the purpose, background, and justification for the proposed regulations. The statement is available from the contact person on request.

When the *Final Statement of Reasons* has been prepared the statement will be available from the contact person on request.

A copy of the express terms of the proposed action using the following styles is also available from the contact person named in this notice:

- 1) language existing before 5/14/07 is shown in PLAIN TEXT,
- 2) language being proposed as either an amendment or new section is DOUBLE-SPACED AND SINGLE UNDERLINED,

The Board will have the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at its office at the above address. All of the above referenced information is also available on the CDF web site at:

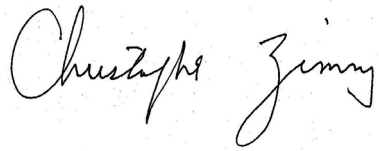
http://www.fire.ca.gov/BOF/board/board_proposed_rule_packages.html

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text—with the changes clearly indicated—available to the public for at least 15 days before the Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) Requested notification of the availability of such changes from the Board of Forestry and Fire Protection.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

A handwritten signature in black ink, reading "Christopher Zimny". The signature is written in a cursive, flowing style. The first name "Christopher" is written with a large, looped 'C' and the last name "Zimny" is written with a large, looped 'Z'.

Christopher Zimny
Regulations Coordinator
Board of Forestry and Fire Protection

File: Road MgtPln-2006-45day-4_24_07